

Date: November 1, 2013

To: John Baza, Director Division of Oil, Gas and Mining

From: Dana Dean, Associate Director Division of Oil, Gas and Mining

RE: IMCC Mid-Year Meeting – October 1-3, 2013

States Attending:

Alaska, Alabama, Colorado, Illinois, Iowa, Kentucky, Maryland, Mississippi (new Associate Member), Montana (not a member), North Carolina, North Dakota, New Mexico, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, Utah, Virginia, West Virginia, Wyoming

Special Session Regarding Possible Upcoming Budget Cuts to the Office of Surface Mining (OSM) Grants for Coal Regulatory (Title V) and Abandoned Mine Reclamation (Title IV) Programs:

The states held a special meeting on Tuesday afternoon to discuss how to approach further cuts to OSM's budget that are forecasted due to sequestration. OSM has indicated that they have asked to put more money into oversight and enforcement and less into training and program support. The states have set other top priorities, such as adequate funding for Title IV and Title V programs, training and processing of important things such as State Program Amendments (federal law requires changes to state law from time to time. These changes must not only go through state rule making, but must be approved by OSM. Lately they have taken an inordinate amount of time because of OSM's lack of priority regarding the amendments.) The group also suggested some ways to improve efficiency, including totally re-analyzing the way OSM conducts oversight and enforcement.

The committee chose a small group of representatives who are now working directly with OSM Director Pizarchik to discuss the priorities.

Mine Safety and Health Committee:

MSHA is cutting grants to states by 6% and intends to eliminate them altogether. This will not affect Utah.

Noncoal Environmental Affairs Committee:

- EPA CERCLA 108(b) Rulemaking
EPA is moving forward with the rule but are becoming more aware that it is a complex situation. They are currently having "Federal Partner Meetings" to assess how the regulatory changes would affect current bonding on federal lands. There has not been any interaction with the states of late and no word on when a proposed rule will be out. Pre-emption would be decided in courts on a case-by-case basis. Greg had a meeting with the Western Governors' Association and EPA in September. EPA is willing to meet with the states to further discuss the issue, but the states don't have anything to comment on without the proposed rule. Greg will coordinate a meeting as necessary when there is something more before us.
- Ed Fogels of Alaska was to testify on October 10th at the House Subcommittee on Energy and Mineral Resources' hearing entitled "Oversight Hearing on 'EPA vs. American Mining Jobs: The

Obama Administration's Regulatory Assault on the Economy" He was to allow IMCC member states to review his information and contribute if needed.

- Revised Non-coal report is available on the IMCC Website
- No pending workshops or meetings with the Feds.
- The National Strategic and Critical Minerals Production Act (HR761) was passed in the House in September.

Abandoned Mine Lands and Coal Environmental Affairs Committees:

- Legislative Update
 - S222 (Udall) and HR488 (Pearce) – Would give tribes and states the authority to use monies for noncoal projects. S222 was approved by the Senate Energy and Natural Resources Committee in April. HR488 has no action so far.
 - HR527 (Hastings) – raises cap on payments to certified tribes and states – passed
 - FY2014 proposed budget for OSM contains two legislative proposals, one to eliminated payments to certified tribes and states and another to establish a hard rock AML fee and program. Neither of these proposals is expected to move in congress.
- Grants
 - AML grants originally cut 10% in February, but 4.9% was given back. The grants have now been amended.
 - Coal grants cut 5.1%
 - FY2014 budget released April 10
 - House and Senate versions have not been reconciled.
 - Action is uncertain
 - Sequestration calls for an additional 7.2% cut
 - Congress has proposed up to a 19% cut!
 - Not sure how cuts will be handled for AML
- Rule Making
 - Stream Protection Rule – proposed rule expected August 2014
 - Cost Recovery – final rule to the Federal Register December 2013
 - Limited Liability – final rule to the Federal Register December 2013
 - Coal Combustion Residues – proposed rule expected May 2014
 - Temporary Cessation – proposed rule expected January 2014
 - Dam Safety – proposed rule expected December 2013
 - Civil Penalties – final rule to the Federal Register November 2013
- Oversight
 - Pushing forward as discussed on Tuesday regarding streamlining Ten Day Notice and oversight processes
 - Permit Termination
 - OSM had issued a Ten Day Notice to West Virginia for renewing a permit for an operation that had not started work within 3 years of obtaining a permit. After WV explained their reasoning and why they felt they had acted appropriately under their state laws, OSM Headquarters Overturned the TDN. There was a similar case in Alaska.
- Follow-up from bonding workshop – Lexon is a surety company that has gone from an A rating to a B++. Everyone is afraid of it becoming the next Frontier Insurance (resulted in several sites where

the bond was unavailable when the state needed to forfeit it – the White Oak Mine in Utah is an example.) States are urged to work with OSM to get the bonds replaced. Utah's rules require a surety to keep an A rating – because of that we were able to get the Lexon bonds replaced or backed by other sureties.

Election of Officers:

Utah has been nominated to act as the Finance Committee Vice Chair in 2014. The Governor will be asked to serve as Treasurer for 2015, Vice Chairman in 2016 and Chairman in 2017. This is the pattern once a state becomes a full-member state.